

or occupational health need without revealing the chemical's identity.

(b) Provide the denial to the health professional, miner, or designated representative within 30 days of the request.

§ 47.87 Review of denial.

(a) The health professional, miner, or designated representative may refer the written denial to MSHA for review. The request for review must include a copy of—

(1) The request for disclosure of the identity of the trade secret chemical,

(2) The confidentiality agreement, and

(3) The operator's written denial.

(b) If MSHA determines that the identity of the trade secret chemical should have been disclosed, the operator will be subject to citation by MSHA.

(c) If MSHA determines that the confidentiality agreement would not suffi-

ciently protect against unauthorized disclosure of the trade secret, MSHA may impose additional conditions to ensure that the occupational health services are provided without an undue risk of harm to the operator.

(d) If the operator contests a citation for a failure to release the identity of a trade secret chemical, the matter will be adjudicated by the Federal Mine Safety and Health Review Commission. The Administrative Law Judge may review the citation and supporting documentation "in camera" or issue appropriate orders to protect the trade secret.

Subpart J—Exemptions

§ 47.91 Exemptions from the HazCom standard.

A hazardous chemical is exempt from this part under the conditions described in Table 47.91 as follows:

TABLE 47.91—CHEMICALS AND PRODUCTS EXEMPT FROM THIS HAZCOM STANDARD

Exemption	Conditions for exemption
Article	If, under normal conditions of use, it— (1) Releases no more than insignificant amounts of a hazardous chemical, and (2) Poses no physical or health risk to exposed miners.
Biological hazards	All biological hazards, such as poisonous plants, insects, and micro-organisms.
Consumer product or hazardous substance regulated by CPSC.	(1) If the miner uses it for the purpose the manufacturer intended; and (2) Such use does not expose the miner more often and for longer periods than <i>ordinary consumer use</i> . When intended for personal consumption or use.
Cosmetics, drugs, food, food additive, color additive, drinks, alcoholic beverages, tobacco and tobacco products, or medical or veterinary device or product, including materials intended for use as ingredients in such products (such as flavors and fragrances).	
Radiation	All ionizing or non-ionizing radiation, such as alpha or gamma, microwaves, or x-rays.
Wood or wood products, including lumber	If they do not release or otherwise result in exposure to a hazardous chemical under normal conditions of use. For example, wood is not exempt if it is treated with a hazardous chemical or if it will be subsequently cut or sanded.

§ 47.92 Exemptions from labeling.

A hazardous chemical is exempt from subpart E of this part under the condi-

tions described in Table 47.92 as follows:

TABLE 47.92—HAZARDOUS CHEMICALS EXEMPT FROM LABELING

Exemption	Conditions for exemption
Chemical substance, consumer product, hazardous substance, or pesticide.	When kept in its manufacturer's or supplier's original packaging labeled under other federal labeling requirements.